

**Agenda for Meeting with Utah Department of Environmental Quality (UDEQ) and Utah  
Division of Oil, Gas and Mining (UDOGM)  
Coordination on Oil & Gas Compliance and Enforcement Efforts**

December 7, 2017, 11:00 AM – 1:00 PM

UDEQ - RM - Wasatch 4124

195 N. 1950 North

Salt Lake City, UT 84116

1. Introductions
2. Opening Remarks
3. Roles and Responsibilities regarding O&G
4. Current Issues (round robin format)
  - a. What's working well
  - b. Areas for improvement
5. Planning for 2018
6. Next steps

Utah Department of Environmental Quality Attendees:

Alan Matheson – Director (see Appendix #1 for background)

Utah Division of Oil, Gas and Minerals Attendees:

John Baza – Director (see Appendix #1 for background)

EPA Attendees:

Doug Benevento – Regional Administrator

Suzanne Bohan – Assistant Regional Administrator, Office of Enforcement, Compliance and Environmental Justice

Scott Patefield – Director, Air & Toxics Technical Enforcement Program

Cindy Beeler – Energy Advisor to the Regional Administrator

Monica Morales – Director, Air Program

## ANNOTATED AGENDA

### 1) Introductions

### 2) Opening Remarks

- Thank you for accepting our invitation to have this meeting to discuss our work as regulatory agencies of the oil & gas sector. We see this as the first of many focused conversations around how we can enhance our existing relationships, be clearer regarding our roles and responsibilities, better align priorities and allocate resources and gain efficiencies in our work.
- The impetus for this meeting comes from correspondence EPA received from O&G industry representatives in Colorado and North Dakota expressing concern about EPA's role in enforcing Clean Air Act regulations in these two states. In response, Administrator Pruitt committed that each Region would work with their counterpart oil & gas regulatory agencies to enhance existing relationships and define EPA /state-lead responsibilities on compliance and enforcement work to eliminate duplication of efforts. (see Appendix #2 for Administrator Pruitt's response letter to WEA).
- The Administrator made two additional commitments in his response to industry. He stated EPA would develop best practices for the judicious use of Clean Air Act section 114 information requests in the oil and gas sector and that EPA would convene a roundtable with representatives of the oil and gas sector and state regulatory agencies to discuss industry concerns and enhance communication while ensuring safe and responsible domestic oil and gas production. OECA has developed criteria for elevation as well as a tracking system for information requests. OECA has also taken the lead in organizing the industry-regulator roundtable.
- Today, we are eager to engage in a frank discussion about our key roles and functions, priorities and challenges related to the oil and gas sector, opportunities to leverage expertise and avoid duplication of effort with the goal of building a stronger regulatory relationship among our agencies as we work to protect public health and the environment.

### 3) Roles and responsibilities regarding oil & gas

- EPA - Overview of Relevant Elements of EPA Strategic Plan Framework:

- In October 3<sup>rd</sup>, EPA released its draft Strategic Plan for public comment. EPA is currently considering the comments we received. The Plan establishes priorities for advancing progress over the next four years in each of EPA's core mission areas—land, air, water—as well as chemicals. These efforts will be supported by strong compliance assurance and enforcement in collaboration with our state and tribal partners, and use of the best available science and research to address current and future environmental hazards, develop new approaches, and improve the foundation for decision making.
  - EPA plans to collaborate more efficiently and effectively with other federal agencies, states, tribal nations, local governments, communities, and other partners and stakeholders to address existing pollution and prevent future problems. With our partners, we will pay particular attention to vulnerable populations. Children and the elderly, for example, may be at significantly greater risk from elevated exposure or increased susceptibility to the harmful effects of environmental contaminants.
  - The idea that environmental protection is a shared responsibility between the states, tribes, and federal government is embedded in our environmental laws, which in many cases provide states and tribes the opportunity and responsibility for implementing environmental protection programs.
  - As you know, most states are authorized to implement environmental programs within their jurisdictions in lieu of EPA-administered federal programs. ECOS indicates that states have assumed more than 96 percent of the delegable authorities under federal law. There are, however, some programs that by statute may not be delegated to the states. Further, as a part of its trust responsibilities, EPA maintains responsibility for implementing environmental programs in much of Indian country. Recognizing these evolving responsibilities, EPA will adapt its practices to reduce duplication of effort with authorized states and tailor its oversight of delegated programs.
- EPA - Share Delegations Table for Utah. Highlight regulations relevant to oil & gas sector (see Appendix #4 for listing). UDOGM has primacy to implement SDWA – UIC Class program.
  - Region 8's role in addressing Air Quality in the Uinta Basin (See Appendix #5)
  - EPA - ECEJ's role regarding CAA
    - The air and toxics TEP has plans to conduct CAA inspections on the U&O Reservation in FY18 to determine compliance with the NSPS OOOO regulation.
    - “As found” engine testing has been conducted on the U&O Reservation and has identified compliance issues with some rich burn reciprocating internal combustion engines.

- EPA - ECEJ's role regarding RCRA
  - The RCRA TEP has direct implementation authority within tribal lands. As part of this responsibility, the region has been working with UDOGM and UDEQ to ensure proper waste characterization and RCRA applicability for new energy developments within the U&O Reservation.
  - The RCRA TEP conducts RCRA 7003 inspections at oil and gas facilities and commercial oilfield waste disposal facilities within the exterior boundaries of the reservation.
- Clarify roles/responsibilities on Indian country.
  - Does UDOGM issue APDs and inspect production wells/wellpads?  
*[It's our understanding that oil and gas oversight on non-fee land in Indian country is performed by BIA/BLM. BLM performs oversight of drilling and production while BIA oversees "environmental and cultural assessments" for oil and gas.]*
  - Does UDEQ or UDOGM issue any permits or conduct inspections on the Uintah & Ouray Indian Reservation – e.g. NPDES wellpad discharge permits? UIC Class II wells?  
*[UDOGM has been issuing Notices of Intents (NOI) for Large Mining Operations to all of the Oil Sands and Tar sands operations on State lands and within the exterior boundaries of the reservation. Many of the leases within the exterior boundaries of the reservation are obtained on the State of Utah School and Institutional Lands Administration (SITLA) land and there for are permitted by UDOGM per a revised NOI to Commence Large Mining Operations. There are potential concerns with overlapping jurisdiction between tribal lands and SITLA lands.]*

#### 4) Current Issues (round robin format)

- What is working well
  - The Air and Toxics enforcement program has been working well with the UDEQ air quality division. Communication regarding complaints and coordination of inspection activities have been excellent. There have not been any coordinated O&G activities in the recent past, but the EPA and UDEQ have coordinated inspection efforts **Ex. 7(A)**
  - Although not enforcement related, Region 8 is very appreciative of the strong, collaborative partnership with UDAQ on oil & gas emission efforts in the Uinta Basin. Patrick Barickman and his Technical Analysis Section have been doing thorough work to improve emission inventories to inform ozone modeling and policy options, coordinating and communicating with Region 8, operators and the Ute Tribe throughout.

- The RCRA enforcement program has a strong working relationship with UDEQ. We have constant communication and coordination regarding inspection activities and complaints. UDEQ typically accompanies the RCRA TEP inspectors on most inspections. Both programs work together throughout the year to minimize duplication. Coordination with UDOGM has primarily been focused on the new energy developments in the Region. Additional coordination needs to take place regarding the commercial oilfield waste disposal facilities.

- Areas for improvement

**Are there any duplicative efforts by our agencies in realm of oil & gas enforcement?**

- Communications? How are we doing with communications at beginning, middle and end of actions? Is there sufficient clarity regarding interests of each organization?
- Are there additional oil & gas activities where UDEQ/UDOGM would like EPA support? [See Appendix #3 for examples of technical assistance EPA can offer].

## **5) Planning for 2018**

National Enforcement Initiative for Energy Extraction (FY17-FY19) - EPA selects National Enforcement Initiatives (NEIs) every three years to focus resources on national environmental problems where there is significant non-compliance with laws, and where federal enforcement efforts can make a difference. (See Appendix #6).

A benefit of the NEI is the funds made available for tools like the FLIR camera, high-flow sampler, portable analyzer, GMAP mobile unit, and LDAR data analysis tool.

There are no current plans to conduct NEI activities on state land in Utah during FY18. There will be a focus on the Uintah and Ouray Reservation due to the ozone non-attainment issues.

- Summarize our plans for U&O for FY18
  - The air and toxics TEP has plans to conduct CAA inspections at oil & gas facilities on the U&O Reservation in FY18 to determine compliance with the NSPS OOOO regulation.
  - The RCRA TEP hasn't conducted any recent oil and gas inspections in Utah. In FY18, the RCRA TEP plans to coordinate with UDOGM in conducting RCRA 7003 inspections at commercial oilfield waste facilities, with an emphasis on those located in Indian Country.

The area of focus will be the Uinta Basin south of Vernal, UT.

- The RCRA TEP will be providing technical input on BIA’s site assessment at **Ex. 7(A)**

## Ex. 7(A)

- The RCRA Corrective Action program in OPRA and the RCRA TEP plan to continue working on the Bentsen and Bevill analysis for the tar sands facilities in Utah, as well as, assisting with the facility hazardous waste determinations and establishing whether waste left in place poses an imminent and/or substantial threat to tribal lands.
- Are there topics of research pertaining to oil & gas and environment that are of interest to UDEQ/UDOGM?  
*[WDEQ has expressed an interest in understanding emissions from enclosed flares used to control emissions from storage tanks.  
Region 8 convened teleconference meetings with state air folks from UT, WY, CO, NM, and OK to learn from one another on this emission source and emission mitigation – WY and CO are further ahead and providing helpful experience]*
- Inspector cross-training and information sharing:
  - UIC inspector training  
*[EPA R8 has been asked to deliver a week-long UIC inspector training program for UIC Class I-VI. Date TBD but potentially summer of 2018.]*
  - Design and O&M considerations in controlling tank emissions  
*[EPA could provide webinar for compliance, permitting, emission inventory staff on the EPA Compliance Alert on this topic – lots of concrete design and operation & maintenance considerations covered and findings from **Ex. 7(A)**  
We could also conduct joint inspections and share our field IR camera protocol and data tracking approach]*

## 6) Next Steps

EPA understands that improvements to protecting human health and the environment can’t be achieved by any actor operating alone, but only when the states and EPA, in conjunction with affected communities, work together in a spirit of trust, collaboration, and partnership.

Program-level meetings to discuss 2018 work.

Roundtable with industry.

## **Appendix**

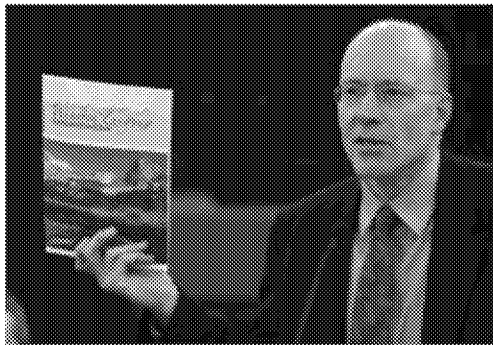
- 1) Background – UDEQ - Alan Matheson and UDOGM - John Baza
- 2) Administrator Pruitt Response Letter
- 3) Examples of technical assistance EPA can offer
- 4) Utah Program Authorization Status for programs applicable to the Oil & Gas sector
- 5) Region 8 CAA Activities related to Uinta Basin
- 6) EPA's National Enforcement Initiative for Energy Extraction webpage
- 7) Region 8 Energy Profile

## #1 - Background

# The Salt Lake Tribune

## Governor names Alan Matheson to lead Utah Department of Environmental Quality

*Environment • Collaboration will be key for Alan Matheson, tapped to replace Amanda Smith at DEQ.*



Steve Griffin | The Salt Lake Tribune Alan Matheson, executive director of Envision Utah, holds up a copy of Wasatch Canyons Tomorrow's recommendations during a press conference at the Salt Lake County Council Chambers in Salt Lake City Monday. The conservation plan will shape the revision of the 1989 Salt Lake County Wasatch Canyons Master Plan for City Creek, Emigration, Red Butte, Parleys, Millcreek, Big Cottonwood, and Little Cottonwood .

By Brian Maffly: The Salt Lake Tribune • May 11, 2015

Alan Matheson figures his undergraduate degree in international relations will serve him well in his new job as director of the Utah Department of Environmental Quality.

"I know people are passionate about matters of the environment. By some degree, I'm being thrown into a cauldron of controversy," Matheson said Monday, moments after Gov. Gary Herbert announced his nomination to succeed Amanda Smith as the state's top environmental regulator.

"I think some of the lessons I learned in diplomacy — solving the Mideast crises and the Cold War — might translate into this position."

After six years as the state's leading environmental watchdog, Smith steps down May 22 to pursue opportunities in the private sector.

Herbert said Matheson, his environmental adviser, was the obvious choice to continue Smith's style of resolving contentious issues through collaboration.

"He knows he has big shoes to fill. I believe he has big enough feet to do the job," the governor said. "He has a tremendous depth and breadth in his own life.

"His interest is in finding collaborative ways for all interested parties to work together in cooperation and find the right solutions and the proverbial win-win," Herbert added. "Alan is the right person at the right time to take the DEQ and move it forward."

Matheson's appointment is subject to state Senate confirmation.

Herbert first plucked Matheson from the Envision Utah growth-planning think tank in 2011 to provide insight in the governor's office on thorny issues including public lands, air quality and oil and gas development.

"The opportunity to work on your staff has been the highlight of my career," Matheson told Herbert. "If you let me go fishing once in a while, it would have been perfect."

Matheson, a father of three adult children, still won't have much time for fishing as he shifts over to head a 378-employee state agency responsible for monitoring air and water quality and regulating the industries that impact them and process various wastes. DEQ has a budget of \$57 million.

"I recognize very clearly that clean air, clean water, healthy landscapes are foundational to so many of the things we want to do and are doing in our state," Matheson said. They are "critical for our health and health of our families, important to our economy, being able to attract the best and the brightest workers, stimulate this tourism industry that is so important for our state, maintain a solid regulatory environment and also the quality of life and the enjoyment of life that brings so many to our state."

In tapping Matheson, Herbert chose a figure well-known to lawmakers and respected by environmental advocates and industry representatives alike.

"Based on Alan's background, he is well-qualified to lead the DEQ and work with all parties to collaboratively address the environmental priorities in the state of Utah," said Kennecott Utah Copper spokesman Kyle Bennett. "As a regulated entity, we have a responsibility to work with our regulators and we will continue to do that."

Matheson knows full well what a hot pot Utah's environmental debates can be. He was a key figure behind DEQ's proposal to ban wood burning all winter long to help reduce particulate air pollution along the Wasatch Front.

Hundreds of angry residents testified against the idea at several public hearings and legislators intervened with a ban of their own: No seasonal bans on wood burning.

Environmentalists appreciated Matheson's willingness to hear their concerns

and ideas for improving environmental quality.

HEAL Utah Director Matt Pacenza said he was pleased by Matheson's selection. "It feels like a continuation of current leadership," Pacenza said. "He is always willing to meet and is a good listener."

And Sierra Club veteran Tim Wagner, who now leads Utah Physicians for a Healthy Environment, said he looks forward to continuing to work with Matheson.

"I've known Alan for many years and have come to respect him for his desire and ability to listen to all sides while also having a deep appreciation for Utah's amazing landscapes and our sensitive environments," Wagner said.

Smith's six-year tenure at the department was marked by some of the most pressing environmental challenges facing the state, including EnergySolutions' plan to bury up to 700,000 tons of depleted uranium in Tooele County, the proposed-and-retracted burning ban and a disastrous oil spill into Salt Lake City's Red Butte Creeek.

Now, Matheson will step into the balancing act.

The founding director of Trout Unlimited's Utah Water Project, Matheson has been a partner in a Phoenix law firm, as well as a senior attorney and environmental policy adviser for Arizona's largest electric utility. He led Envision Utah for seven years.

Matheson earned a bachelor's in international relations from Stanford University and a law degree from UCLA School of Law.

Smith thanked Matheson for taking the reins.

"If I have a charge to you, it's to continue to engage all parties in the discussion, but also assure the staff that it continues to be valued and developed," Smith said. "The big issue facing the department is we have a huge number of people who are going to retire in the next 10 years.

"We have to look at how to keep good people working for the state, because the issues are difficult and the degree of professionalism and education is high."

Smith, a former Nature Conservancy attorney, was hailed as a superb collaborator and "peacemaker." Then-Gov. Jon Huntsman Jr. tapped Smith, his legislative director, in 2009 to replace Rick Sprott as the state's top environmental regulator.

Herbert said Smith made the department more efficient by removing bureaucratic roadblocks, which he believes improved environmental protection. Its six divisions will be reduced to five next month when the divisions of Radiation Control and Solid and Hazardous Waste are merged.

bmaffly@sltrib.com

## Utah Department of Environmental Quality

(DEQ at a Glance information excerpted from UDEQ's website: [deq.utah.gov](http://deq.utah.gov))

### Executive Director's Office

#### *Provides Departmental Leadership*



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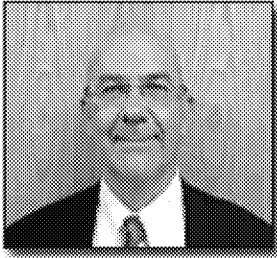
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- Directs planning and policy development within the Department.
- Supports implementation of State and Federal environmental laws, rules, and regulations.
- Maintains State primacy for implementing Federal programs.
- Implements community affairs and outreach programs.
- Provides technical and policy recommendations to the Governor and Legislature.
- Coordinates Department programs with Local Health Departments.
- Provides general services and program support.
- Coordinates public affairs.
- Coordinates budget and financial accounting.
- Provides human resource management services.

**Office of Attorney General Environmental Division**



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**Division of Air Quality**

*Protects Public Health and the Environment From the Harmful Effects of Air Pollution*



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**Authorities**

- Federal Clean Air Act Amendments
- Utah Air Conservation Act

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**Division of Drinking Water**

***Oversees State's Public Drinking Water Systems; Protects Public Against Waterborne Health Risks Through Assistance, Education and Oversight***

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**Authorities**

- Utah Safe Drinking Water Act
- Federal Safe Drinking Water Act

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**Division of Environmental Response and Remediation**

***Implements Waste Cleanup Plans and Environmental Responses***



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**Authorities**

- Comprehensive Environmental Response Compensation and Liability Act (Superfund)
- Emergency Planning and Community Right to Know Act (SARA Title 3)
- Subtitle I of Resource Conservation and Recovery Act (RCRA)
- Underground Storage Tank Program
- Voluntary Cleanup Program
- Brownfields Redevelopment Program

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**Division of Waste Management and Radiation Control**

***Ensures Proper Management of Solid and Hazardous Waste and Protects Utah Citizens from the Harmful Effects of Radiation***



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## Authorities

- Federal Resource Conservation and Recovery Act (RCRA)
- Utah Radiation Control Act
- Utah Solid and Hazardous Waste Act
- Utah Used Oil Management Act
- Waste Tire Recycling Act

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## Division of Water Quality

### *Protects Surface and Groundwater Quality to Allow Beneficial Uses and to Protect Public Health*



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## Authorities

- Utah Water Quality Act
- Federal Clean Water Act

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## Utah Division of Oil, Gas and Mining

## MESSAGE FROM THE DIRECTOR



"The mining of coal, minerals, oil and natural gas production play an important part in Utah's economy, and without these natural resources we would not enjoy the standard of living we do in our modern society. The Division of Oil, Gas and Mining ensures our access to these natural resources in an environmentally responsible manner, while our Abandoned Mine Program works to protect the public from the dangers of unregulated past mining practices. Our employees really do make it happen."

John R. Baza  
Director, Utah Division of Oil, Gas and Mining

## Our Mission

The mission of the Utah Division of Oil, Gas and Mining is to regulate the exploration and development of coal, oil and gas, and other minerals in a manner which

1. encourages responsible reclamation and development;
2. protects correlative rights;
3. prevents waste; and
4. protects human health and safety, the environment, and the interests of the state and its citizens.

## Division History

The Division was originally established in 1955 as the Oil and Gas Conservation Commission to prevent the waste of oil and gas, encourage conservation and protect the correlative rights of oil and gas owners. Regulation of oil and gas exploration and development is funded with a levy on Utah oil and gas production. In 1968, the Division of Oil and Gas Conservation was formed as a part of the Department of Natural Resources. In 1975, the Utah Legislature assigned the Division the responsibility for administration of the Mined Land Reclamation Act and it became the Division of Oil, Gas and Mining. The Act's primary function was to "prevent conditions detrimental to the general safety and welfare of the citizens of the state of Utah" that could occur from activities of the mining industry in the state. Permitting and inspection/enforcement procedures ensure proper mine operation and the reclamation of affected lands.

Implementation of the Mined Land Reclamation Act was initially funded totally with general state funds. A specific law to address the reclamation of coal mines, the Utah Coal Mining and Reclamation Act was passed in 1979, and in 1981 Utah received primacy for regulation of coal mining and reclamation under the

federal Surface Mining Control and Reclamation Act of 1977 (SMCRA). In March 1987, the Division assumed sole responsibility under a Cooperative Agreement for permitting, inspection and enforcement on federal lands. Federal monies are provided for regulation of coal mining and reclamation on federal and nonfederal lands. The current cost split for the Coal Regulatory Program is 86 percent federal funds and 14 percent general funds. Monies for the regulation of noncoal minerals exploration and development continue to come primarily from the general fund with supplement from a modest permit fee program implemented in 1998.

The Division also conducts reclamation of abandoned mine sites under Title IV of SMCRA. Funds for this program come totally from appropriations of federal fees paid by the coal industry, based on a per-ton produced rate. Modest funding agreements with private and federal partners also supplement some of the work in the Abandoned Mine Reclamation Program.

The Division received primacy in 1982 from the Environmental Protection Agency for regulation of Class II Water Injection Wells. This program was originally designated for funding with 75 percent federal funds and 25 percent general funds. During FY-98, however, federal funding comprised 44 percent of the revenue with the remaining costs covered by general funds. The program regulates disposal of produced water from oil and gas wells, and reinjection of fluids for pressure maintenance and secondary recovery operations in oil and gas fields.

In addition to Division functions, a seven-member quasi-judicial Board of Oil, Gas and Mining is responsible for policy development and for considering appeals of Division actions, specific regulatory policy determinations and rulemaking functions. The members of the Board are appointed by the Governor with Senate concurrence.

## **#2 - Administrator Pruitt Response Letter**

**E. SCOTT PRUITT**  
**ADMINISTRATOR**

July 10, 2017

Ms. Kathleen Sgamma  
President  
Western Energy Alliance  
1775 Sherman Street, Suite 2700  
Denver, Colorado 80203

RE: EPA Clean Air Act Compliance Assurance Activities in the Oil and Gas Sector

Dear Ms. Sgamma:

Thank you for sharing your concerns regarding the U.S. Environmental Protection Agency's Clean Air Act enforcement and compliance assurance activities in the oil and gas sector. We discussed the concerns raised in your correspondence with involved staff at the EPA, the Colorado Department of Public Health and Environment and the North Dakota Department of Health. We are focused on increased coordination and collaboration among the EPA, our state partners and oil and gas producers.

The EPA acknowledges the critical role that the oil and gas industry plays in ensuring the nation's energy independence through domestic energy production. We are committed to working with the oil and gas industry and our state partners to ensure domestic oil and gas production occurs in a safe and responsible manner and in compliance with applicable environmental laws. We recognize the efforts industry and our state partners have made to reduce excess emissions from oil and gas operations in order to protect and improve the nation's air quality.

The agency intends to continue working with NDDH to address violations and reduce Bakken oil and gas emissions. Going forward, the EPA plans to focus its Bakken oil and gas compliance assurance activities on operations on the Fort Berthold Indian Reservation where the state does not have Clean Air Act authority, and NDDH will focus its efforts on operations outside of Indian country. Close coordination on these efforts will help to ensure a level playing field.

We plan to continue to work cooperatively with CDPHE on investigations of oil and gas operations and other compliance assurance activities. We are particularly focused on the Denver-Julesburg Basin because of its place in the Denver Metro/Front Range ozone nonattainment area. The EPA anticipates that the state of Colorado will take the lead in pursuing state-only enforcement actions in the Basin and throughout Colorado. The EPA will generally defer to the state where the

state wishes to pursue state-only action and will join the state on a limited, as-requested basis. The EPA will take the lead on oil and gas compliance assurance activities on operations in Indian country in Colorado.

Your letter raises broad concerns about the agency's relationships and communications involving the oil and gas sector. To begin to address those concerns, I have directed agency staff to take the following steps:

1. Each region will work with their counterpart state oil and gas regulatory agencies to enhance existing relationships and define EPA/state-lead responsibilities on compliance and enforcement work to eliminate duplication of efforts. This may include discussions of tools to promote compliance in the oil and gas sector, joint planning and a process for elevating any material disagreements with states that cannot be resolved in the normal course of business.
2. Nationally, we will develop best practices for the judicious use of Clean Air Act section 114 information requests in the oil and gas sector, such as tailoring requests to potential violations and elevating for senior policy consideration any planned information requests that meet certain criteria.
3. We plan to convene a roundtable with representatives of the oil and gas sector and state regulatory agencies to discuss industry concerns and enhance communication while ensuring safe and responsible domestic oil and gas production.

I hope these steps will help to address your concerns and provide a solid basis for our continuing partnership with state agencies. We welcome your ideas in this regard. Please contact Deb Thomas, Region 8 Acting Regional Administrator, at (303) 312-6532 with any questions or recommendations you may have.

Respectfully yours

A handwritten signature in black ink, appearing to read "E. Scott Pruitt", with a large, sweeping flourish extending from the end of the signature.

E. Scott Pruitt

### #3 - EPA Technical Assistance – Examples:

- GMAP (Geospatial Measurement of Air Pollution) using NEIC's vehicle.  
*[e.g. in Colorado, CDPHE and COGCC have requested GMAP service; in North Dakota, NDDH has requested GMAP service. These activities have occurred or are scheduled for this FY.]*
- METEC (Methane Emissions Technology Evaluation Center) OGI Testing – EPA/DOE/CSU in discussions on leveraging site to test Optical Gas Imaging (OGI) to better bound its performance in detecting leaks from oil & gas. This is foundational to approving alternative gas detection technologies which requires a demonstration of equivalent emission reductions to OGI.  
*[We are looking for OGI camera operators!]*
- Are there additional oil & gas activities where UDEQ/UDOGM would like EPA support? Examples:
  - Assessing compliance with emissions from oil/condensate storage tanks making it to intended control device.  
*[UDAQ/TriCounty Health Department/USU conducted their Storage Tank Emissions Pilot Project (STEPP) using an IR camera at 454 wellpads with controlled tanks - 39% of sites surveyed had observed emissions and 80% of those were from tanks.]*
  - LDAR at gas processing plants.  
*[We are finding that there are widespread issues with under monitored equipment and process units inaccurately not being identified as applicable to LDAR requirements of KKK or OOOOa. We could train UDEQ inspectors on use of TVA.]*
  - Engine testing in as-found conditions.  
*[The EPA has been performing portable analyzer testing in the U&O Reservation. A number of rich burn engines have been found to be exceeding NSPS JJJJ standards. CO and WY have been doing similar engine testing in as-found conditions and found ~1/3 of engines exceeding emission limits. We could train UDEQ inspectors on use of the portable analyzer or do joint measurement sin the field.]*
  - Response to produced water spills, especially if on Indian country.  
*[This is an area of concern for the MHA on FBIR and they have requested support from EPA to more timely and effectively respond to produced water spills on the FBIR – is this an issue in UT or on the Uintah & Ouray Indian Reservation? Are there ways for Ute Tribe/EPA/UDEQ/UDOGM to work together to mutually understand roles and responsibilities of spills on well pads, off wellpads, along pipeline ROWs, on Trust lands, on Fee lands – from notification of incidents through clean-up and mitigation?]*
  - RCRA 7003 inspections of wellpad inspections w/ UDOGM.  
*[EPA has conducted such joint inspections of wellpad operations with NDIC, WOGCC, COGCC and MBOGC. EPA plans to conduct such joint inspections with UDOGM in FY18 at commercial oilfield waste facilities]*
  - Radioactive oilfield waste streams.  
*[EPA was asked by the Ute Mountain Ute Tribe to investigate the spreading of oilfield*

*Internal Deliberative – Do not cite, quote, or distribute wastewater as a dust suppressant on dirt roads. We have collected samples of the oilfield wastewater from the facility selling it as well as samples from roads where the applications took place. Those samples are being analyzed in labs. Neighboring counties in UT were identified as also using this product. The RCRA TEP informed UDEQ to make them aware of the situation. It is our understanding that UDEQ has reached out to the potentially impacted counties in order stop the current practice until more information is gathered and a determination made.*

- Oil shale/tar sands.

*[EPA, UDEQ and Tribal representatives conducted site visits at the US Oil Sands PR Springs Project, Red Leaf Energy, MCW and Vivakor facilities located on state and tribal lands in October, 2016 in order to gather more information of the facilities processes and waste streams. The site visits were coordinated with UDOGM, however, UDOGM did not participate in the site visits. In August, 2017 EPA and UDEQ inspectors visited the sites again in order to collect samples to help with the overall waste characterization determination by the facilities. At the time of the site visits, only Red Leaf's oil shale pilot facility had process generated waste available to sample. EPA is working with UDEQ, UDOGM and the facility to properly characterize their waste stream for RCRA applicability.]*

# **#4 - UTAH PROGRAM AUTHORIZATION\* STATUS FOR PROGRAMS APPLICABLE TO THE OIL AND GAS SECTOR**

(As of October 31, 2017)

This summary table is for informational purposes only. This table does not have legal effect and is not intended to be an exhaustive description of authorized programs or activities.

\* For the purposes of this table, "Program Authorization" is also used generally to describe program authorization, delegation, or approval. Note: All program authorizations are to UDEQ unless otherwise noted.

AUTHORITY	PROGRAM	UT	NOTES
CAA; Part 60 <sup>1</sup>	NSPS	Y	
CAA; Part 61 <sup>1</sup>	NESHAPS	Y	
CAA; Part 63 <sup>1</sup>	NESHAPS	Y	
CAA; Part 68 (112r)	Chem Accident Prevention	N	
CAA; Part 72	Acid Rain	Y	
CAA Sec 51.166 <sup>1</sup>	PSD	Y/SIP	
CAA TITLE V; Pt 70	Air Permitting	Y	
CAA <sup>1</sup>	New Source Rev	Y/SIP	
CAA Sec 306	Indoor Radon	ND	
CAA; Part 110 <sup>1</sup>	SIPs	Y/SIP	
	Base Realignment And Closure	ND	
CERCLA	Brownfields	ND	
CERCLA	Community Right to Know	ND	
CERCLA	Counterterrorism	ND	
CERCLA	Emergency Response	ND	
CERCLA	Remediation (Long Term)	ND	
CERCLA	Removals	ND	
CWA <sup>2</sup>	Construction Grants	Y	
CWA; Part 123	NPDES Base Program	Y	
CWA; Part 123	NPDES Federal Facilities	Y	
CWA; Part 123	General Permits	Y	
CWA; Part 123, 403	NPDES Pretreatment	Y	
CWA; Part 123 or 501	NPDES Sludge Mgmt (Biocolids)	Y	
CWA Sec 604b	CWA SRF	Y	
CWA Sec 404	CWA 404	N	
CWA Sec 319	Nonpoint Source	ND	
CWA	TMDLs	ND	
EPCRA Sec 313 <sup>1</sup>	TRI Data	ND	
EPCRA; 304, 311, 312	EHS, Releases, Tier II Reports	ND	

AUTHORITY	PROGRAM	UT	NOTES
FIFRA Sec 23a	Pesticide Enforcement	Y	Dept of Ag
FIFRA Sec 23a	Pesticide Certification	Y	Dept of Ag
FIFRA	Endangered Species	ND	
FIFRA	Worker Protection	Y	Dept of Ag
FIFRA	Groundwater Protection	ND	
Oil Pollution Act	Oil Pollution Act (OPA)	ND	
IRAA	Indoor Radon	SR	
NEPA	EIS/EA Review	ND	
Pollution Prev Act	Pollution Prevention, PPIS	SR	
RCRA C <sup>6</sup>	Base Program	Y	
RCRA C	Corrective Action	Y	
RCRA C	Mixed Waste	Y	
	Boilers & Industrial Furnances (BIF)	Y	
RCRA C	Toxicity Character	Y	
RCRA C	Land Disposal Restrictions (LDR)	Y	
RCRA C	CERCLA Offsite Rule	ND	
	Imminent and Substantial Endangerment	ND	
RCRA 7003	Solid Waste	Y	
RCRA D	UST	Y	
SDWA	PWSS- Base Program	Y	
SDWA	PWSS Rule- IESWTR	Y	
	PWSS Rule- Stage 1 Disinfectant Byproduct	Y	
SDWA	PWSS Rule- Consumer Confidence	Y	

AUTHORITY	PROGRAM	UT	NOTES
SDWA	PWSS Rule-Variances and Exceptions	N/A	
SDWA	PWSS Rule- New PWS definition	N/A	
SDWA	PWSS Rule- Administrative Penalty	Y	
SDWA	PWSS Rule- Op. Cert. Program	Y	
SDWA	PWSS Rule- Op. Cert. Expense Reimb.	Y	
SDWA	PWSS Rule- Radionuclides	Y	
SDWA	PWSS Rule- Arsenic	Y	
SDWA	PWSS Rule-PN	Y	
SDWA	PWSS Rule- Lead & Copper Methods (LCR MR)	Y	
SDWA	PWSS Rule- Filter Backwash	Y	
SDWA	PWSS Rule- LT1	Y	
SDWA	PWSS Rule- LT2	Y	
SDWA	PWSS Rule- Stage 2 DBPR	Y	
SDWA	PWSS Rule- GWR	Y	
SDWA	PWSS Rule- Revised Total Coliform Rule	IN	

AUTHORITY	PROGRAM	UT	NOTES
SDWA Sec 1452	DW SRF	Y	
SDWA Sec 1453	Source Water Assessment	Y/SIP	
SDWA Sec 1428 <sup>1, 8</sup>	Wellhead Protection	Y/SIP	
SDWA Sec 1422	UIC Class I, III and V	Y	
SDWA Sec 1422	UIC Class VI	N	
SDWA Sec 1425	UIC Class II Petroleum Related	Y	UDOGM
TSCA	Asbestos (MAP)	Y	
TSCA	AHERA Waivers (Enforcement)	Y	
TSCA Sec 306	Indoor Radon	ND	
TSCA Section 1018	Lead Disclosure Rule	ND	
TSCA Section 402(a)	Lead Abatement Rule	Y	
TSCA Section 406(b)	Lead Pre-Renovation Education (PRE) Rule	Y	
TSCA Section 402(c)(3)	Lead Renovation, Repair & Painting (RRP) Rule	Y	
TSCA	PCBS (Incinerators & Land Disposal)	ND	

**Legend:**

ND= Not able to authorize by statute		
N= State has not sought authorization		
IN= In progress		
P = Partial		
SR = State Run Program	No authorization required	depends on funding
SIP = State Implementation Plan		
Y = Yes; authorized in whole or in part		

**Foot Notes:**

1. State has authority to administer or enforce some or all of these regulations; by State Implementation Plan (SIP) or authorized program. EPA has Federal Implementation Plans for MT and SD for Phase I visibility for all or part of the program. For details on the delegation status of specific subparts for each state, please refer to the following site: [ HYPERLINK "<https://www.epa.gov/region8/air-program>" ].
2. EPA still maintains responsibility for audit resolution.
3. Only the enforcement portion can be delegated.
4. Delegated for commercial applicators only; not for individual applicators.
5. Delegated for commercial and private applicators; not for enforcement under FIFRA.
6. States will continue to adopt standards as Federal standards change.
7. All elements approved, except field filtering for ground water sampling.
8. Approval of Source Water Assessment Plans do not negate the State Implementation Plan (SIP) for Wellheads



## **#5 Region 8 CAA Activities related to Uinta Basin**

### **Overview of approach on U&O Reservation to address air quality ozone issues**

#### Background

- The Uinta Basin has been experiencing elevated wintertime ozone concentrations for six of the eight years since air quality monitoring began that exceed both the 2008 8-hour NAAQS of 75 parts per billion (ppb) and the 2015 standard of 70 ppb. Most recently ozone exceedances as high as 111 ppb in January and February 2017 confirm that poor air quality is an ongoing issue in the Uinta Basin.
- ~9,000 existing wellpad facilities on the U&O Reservation that have no emission controls.
- The Uinta Basin covers an area of ~6,800 square miles, with ~11,000 oil & gas wellpad facilities with an average of 1.3 wells per wellpad facility.

#### U&O FIP

- To streamline preconstruction permitting for minor oil and natural gas sources in Indian country, in 2016 EPA adopted a national FIP that applies to attainment, unclassifiable and attainment/ unclassifiable areas.
- In anticipation of a nonattainment designation for the 2015 8-hour ozone NAAQS, Region 8 drafted a FIP to reduce emissions from existing facilities on the U&O Reservation, in order to address the CAA “cause or contribute” provision for permitting of new and modified sources.
- A draft U&O FIP that proposed to reduce emissions from existing oil and natural gas facilities was submitted to OMB in June 2016 and pulled from OMB in Jan 2017.
- A nonattainment designation for the 2015 ozone standard is likely in 2018, which would make the national FIP no longer available to new and modified minor oil and natural gas sources on the U&O Reservation.
- To address the air quality needs of the Uinta Basin, and considering input received from industry, the Tribe, and state of Utah, the EPA is planning on addressing in the U&O FIP: (1) consistent regulatory requirements for new and existing oil and natural gas sources between the U&O Reservation and lands under Utah’s jurisdiction; (2) a streamlined approval mechanism that will apply to new minor oil and gas sources on the U&O Reservation after a nonattainment designation; and (3) emissions reduction measures from existing oil and gas sources to allow implementation of the streamlined approval mechanism and to ensure that air quality and public health are protected in the Uinta Basin.
- Region 8, in coordination with EPA HQ, has drafted a U&O FIP to cover both existing facilities and to streamline permitting for new facilities in a single rulemaking. The cost benefit analysis, that is part of this rulemaking, will be based upon the Uinta Basin Air Agencies 2014 Oil & Gas Emission Inventory.
- EPA’s intention is to finalize the rule expeditiously to ensure that there are no impacts to continued oil and gas development on the U&O Reservation.

#### Fort Berthold Indian Reservation FIP

- In 2013, Region 8 finalized a Federal Implementation Plan (FIP) containing rules to reduce emissions from oil & natural gas well production facilities on the Fort Berthold Indian Reservation (FBIR FIP). This FIP was welcomed by industry as it provided federally enforceable limits on VOC emissions that had the effect of keeping most facilities below major source levels, thus allowing those sources to comply with the Federal Minor New Source Review Permit Program at 40 CFR part 49 for constructing new facilities, which provides a streamlined permitting mechanism for minor oil and natural gas sources.

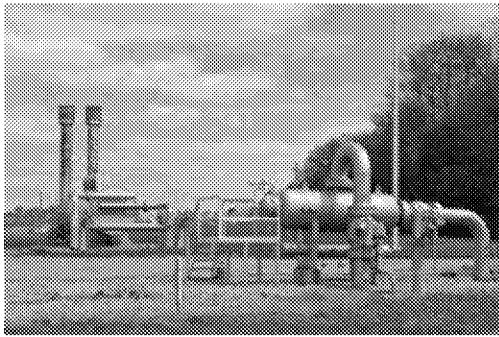
*Internal Deliberative – Do not cite, quote, or distribute*

*Note: The FBIR FIP does NOT take the place of permit requirements like the National Indian country FIP for true minor oil and natural gas sources does. It contains enforceable emission control requirements that sources can account for when calculating their PTE for the purposes of determining which preconstruction permitting program applies. This is a distinction we have continually had to clarify for both EPA staff and senior management, as well as the regulated industry, since its promulgation, despite clearly (at least we thought so) explaining it in the rulemaking. It is similar to an NSPS and the effect that applicability and compliance has on an individual source's applicable permitting requirements.*

#### CAA Enforcement Considerations

- With current Region 8 CAA inspector resources, we first inspected and investigated wellpad facilities in Colorado's D-J Basin because of the ozone nonattainment area and a request by CDPHE to collaborate. Widespread issues were found with tank emissions not making it to intended control device. This work continues in partnership with CO as well as CO doing some cases on their own.
- Next, Region 8 conducted joint inspections with NDDH in the Bakken and found similar issues of tank emissions not making it to intended control devices, though a higher magnitude of emissions than in the D-J Basin due to formation and production differences. After one joint settlement with NDDH covering mitigation on state land and the Fort Berthold Indian Reservation (FBIR), NDDH is now negotiating with operators operating on State land while Region 8 addresses noncompliance with the FBIR FIP on FBIR.
- In FY18, Region 8 intends to inspect/investigate for tank emissions compliance issues on the U&O. The relative timing of the Uinta Basin compared to D-J and the Bakken is due to Region CAA inspector resource levels; the majority of wellpad facilities being uncontrolled; lower production volumes; and the low # wells/wellpad which make the facility emissions fall below certain thresholds.
  - Previous inspections indicate similar issues in the U&O, with tank emissions not reaching the intended control device. (OOOO applicability determinations may not be conducted appropriately. EPA began effort on an NSPS OOOO Applicability Compliance Alert, which has stalled.)
  - Any potential enforcement on the U&O would be based on federal oil and gas regulations (NSPS OOOO/OOOOa) since there is not an active FIP.
- A recent tribal registration suggests there may be future well activity in the U&O with oil production rates similar to the wells producing in the Bakken.

# #6 - National Enforcement Initiative: Ensuring Energy Extraction Activities Comply with Environmental Laws



Natural gas pump

## Compliance Alert

EPA published a [ [HYPERLINK "https://www.epa.gov/enforcement/compliance-alert-epa-observes-emissions-controlled-storage-vessels-onshore-oil-and"](https://www.epa.gov/enforcement/compliance-alert-epa-observes-emissions-controlled-storage-vessels-onshore-oil-and) ] because EPA and state investigations have identified Clean Air Act compliance concerns regarding significant emissions from storage vessels, such as tanks or containers, at onshore oil and natural gas production facilities. The Alert discusses certain engineering and maintenance practices that may address compliance concerns and reduce emissions.

## Fast Fact

The Department of Energy projects shale gas will be more than 20% of the total U.S. gas supply by 2020.

## Problem

As the nation continues to develop new forms and sources of energy, there is an urgent need to assure that we develop energy sources in an environmentally protective manner. EPA recognizes the importance of natural gas as a cleaner burning “bridge fuel” in the search for new forms and sources of energy. However, some techniques for natural gas extraction pose a significant risk to public health and the environment.

## Goal

EPA has worked closely with states to assure that domestic onshore natural gas extraction and production is done in a way that protects the environment and complies with all applicable laws. EPA has settled a number of high-impact cases under this initiative resulting in significant air emissions reductions, and will continue to identify the best ways to address pollution through greater use of advanced

pollution monitoring and reporting techniques. EPA will also utilize innovative Next Generation technologies and techniques as appropriate to address non-compliance.

## **Progress on Ensuring Energy Extraction Activities Are Complying With Environmental Law**

The following maps and charts show EPA's progress in addressing incidences of noncompliance from natural gas extraction and production activities.

- [ HYPERLINK "<https://www.epa.gov/enforcement/national-enforcement-initiative-ensuring-energy-extraction-activities-comply>" \l "pane-1" \o "Click to expand description" ]  
Map of basins and shale plays and EPA energy extraction inspections/evaluations and enforcement actions

## #7 Region 8 Energy Profile

### ENERGY – Region 8

Region 8 contains significant fossil fuel energy resources. Although Region 8 States account for 3.6% of the nation's population, we produce:

- ~21% of the country's oil production
- ~15% of the gas production
- ~52% of the coal production
- ~68% of ONRR's onshore royalty revenue

42% of the surface in Region 8 is Federal Lands or Indian country →

- EPA has direct implementation responsibility on most Indian country
- NEPA work with Federal partners

MAP: Dots identify active oil & gas wells. Orange areas are Indian Reservations.

ONRR = Office of Natural Resource Revenue (responsible for collecting royalty from mineral extraction on Federal lands and Indian country)

